

AO 91 (Rev. 5/85) - Criminal Complaint

E-FILING

United States District Court

NORTHERN

DISTRICT OF

2007 SEP 19 A 9:11
CALIFORNIA

UNITED STATES OF AMERICA

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

V.

CRIMINAL COMPLAINT

Abel LAMAS-Pacheco

07 70552

CASE NUMBER:

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, September 6, 2007, in Santa Clara County in the Northern District of California defendant(s)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326
I further state that I am a(n) Deportation Officer and that this complaint is based on the following
Official Title
facts:

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty years imprisonment and \$100.00 special assessment fee and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Signature of Complainant

Sworn to before me and subscribed in my presence,

Sept 19, 2007

Date

at

San Jose, California

City and State

Patricia V. Trumbull
UNITED STATES MAGISTRATE JUDGE
Name & Title of Judicial Officer

Signature of Judicial Officer

RE: Abel LAMAS-Pacheco

A 26 369 694

I, Timothy F. Purdy, am a Deportation Officer of the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I have been employed by this agency, U.S. Customs & Border Protection and the former Immigration and Naturalization Service (INS), since October 1, 2002. I am currently assigned to the Criminal Alien Program at the San Jose, California Sub-Office. In such capacity, I have reviewed the official immigration "A-File" relating to the above named defendant, which attests to the following:

- (1) The DEFENDANT Abel LAMAS-Pacheco (*AKA: Tony Ricardo GONZALEZ*) is a 54 year-old single male whose date of birth is currently understood to be July 26, 1953. He is a citizen and native of Guadalajara, Mexico as substantiated by sworn statements made to that effect by the DEFENDANT during interviews initiated on both March 31, 1995 and on September 6, 2007. This most recent interview was taken at Santa Clara County Jail by ICE Immigration Enforcement Agent (IEA) Joseph Oidem of the San Jose, California DRO Sub-Office;
- (2) The DEFENDANT has been assigned Alien Registration number of A 26 369 694, FBI number of 659658PA9, and California Criminal State ID Number of A04123628;
- (3) On October 19, 1982, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following felony offenses: ESCAPE, in violation of California Penal Code Section 4532(A) *and* DUI W/A PRIOR, in violation of California Vehicle Code Section 23102(A), for which the DEFENDANT was sentenced to three-hundred and sixty days in jail.
- (4) On July 8, 1983, the DEFENDANT was determined to be unlawfully present in the United States by the Immigration Judge San Francisco, California and ordered deported from the United States to Mexico;
- (5) On March 10, 1988, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following misdemeanor offense: USE/UNDER THE INFLUENCE OF CONTROLLED SUBSTANCE, in violation of California Health and Safety Code Section 11550, for which the DEFENDANT was sentenced to ninety days in jail;
- (6) On August 16, 1988, the DEFENDANT was determined to be unlawfully present in the United States by the Immigration Judge San Diego, California and ordered deported from the United States to Mexico;

RE: Abel LAMAS-Pacheco

A 26 369 694

- (7) On June 5, 1990, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following felony offense: DUI W/ THREE PRIORS, in violation of California Vehicle Code Sections 23151 & 23175, for which the DEFENDANT was sentenced to sixteen months in jail;
- (8) On July 2, 1991, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director San Diego, California and ordered deported from the United States to Mexico;
- (9) On December 17, 1991, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director San Francisco, California and ordered deported from the United States to Mexico;
- (10) On October 6, 1992, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following felony offense: RECEIVING/ETC KNOWN STOLEN PROPERTY, in violation of California Penal Code Section 496, for which the DEFENDANT was sentenced to one-hundred and thirty-four days in jail;
- (11) On January 5, 1993, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director San Diego, California and ordered deported from the United States to Mexico;
- (12) On August 17, 1993, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director Florence, Arizona and ordered deported from the United States to Mexico;
- (13) On July 12, 1994, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following misdemeanor offense: BATTERY, in violation of California Penal Code Section 242 & 243, for which the DEFENDANT was sentenced to seventeen days in jail;
- (14) On January 19, 1995, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following felony offense: INFLICTING CORPORAL INJURY SPOUCE/COHAB, in violation of California Penal Code Section 273.5, for which the DEFENDANT was sentenced to two years in prison. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(F);

RE: Abel LAMAS-Pacheco

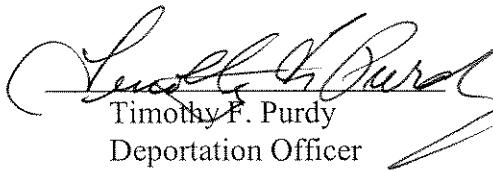
A 26 369 694

- (15) On June 15, 1996, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director El Centro, California and ordered deported from the United States to Mexico;
- (16) On August 28, 1996, the DEFENDANT was convicted in the Superior Court of California/County of San Diego, for the following felony offense: BURGLARY 1ST DEGREE W/ PRIOR PRISON, in violation of California Penal Code Section 459, for which the DEFENDANT was sentenced to twenty-eight months in prison. This offense is defined as an aggravated felony under Title 8, United States Code, Section 1101(a)(43)(G);
- (17) On November 28, 1997, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director Eloy, Arizona and ordered deported from the United States to Mexico;
- (18) On August 10, 1998, the DEFENDANT was convicted in the U.S. District Court, Southern District of California, for the following felony offense: ILLEGAL REENTRY INTO THE UNITED STATES, in violation of 8USC Section 1326, for which the DEFENDANT was sentenced to thirty months in prison;
- (19) On February 22, 2000, the DEFENDANT was determined to be unlawfully present in the United States by the INS District Director Philadelphia, Pennsylvania and ordered deported from the United States to Mexico;
- (20) On November 30, 2005, the DEFENDANT was determined to be unlawfully present in the United States by the DRO/ICE Field Office Director San Francisco, California and ordered deported from the United States to Mexico;
- (21) On September 3, 2007, the DEFENDANT was convicted in the Superior Court of California/County of Santa Clara, for the following misdemeanor offense: DUI, in violation of California Vehicle Code Section 14601(A), for which the DEFENDANT was sentenced to twelve days in jail;
- (22) On, August 24, 2007, the Defendant was encountered by IEA Joseph Oidem, at Santa Clara County Jail, and determined to be unlawfully present in the United States after a prior deportation. IEA Oidem read the DEFENDANT of his **Miranda** rights in the English language. The DEFENDANT waived his **Miranda** rights and provided a written sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Secretary of the Department of Homeland Security or the United States Attorney General to reenter the United States;

RE: Abel LAMAS-Pacheco

A 26 369 694

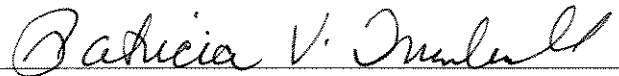
- (23) The DEFENDANT'S official A-File does not contain any record or indication that he either requested or received permission from the Secretary of the Department of Homeland Security or the Attorney General of the United States to reenter the United States;
- (24) Based on the above stated information, this Officer believes there is sufficient probable cause that the Defendant is present within the United States in violation of Title 8, United States Code, Section 1326.



Timothy F. Purdy
Deportation Officer

Immigration and Customs Enforcement

Subscribed and sworn to before me this 19 day of Sept, 2007



Patricia V. Trumbull

UNITED STATES MAGISTRATE JUDGE